

# PETITION -- HOUSE

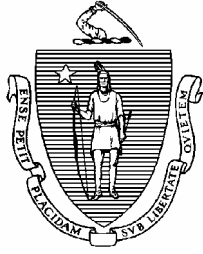
**CHIEF SPONSOR:**

## Representative KAUFMAN of LEXINGTON

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts  
in General Court assembled.*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill or resolve.

[illegible]



# The Commonwealth of Massachusetts

IN THE YEAR TWO THOUSAND FIVE

## AN ACT TO PREVENT USE OF THE MOST DANGEROUS PESTICIDES.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. (a) Purpose. The purpose of this act is to reduce health threats from the use of the most dangerous pesticides used in state, municipal, school, daycare center, hospital, health care facility, or public housing buildings or grounds and by licensed pesticide applicators.

SECTION 2. Section 2 of chapter 132B of the General Laws, as so appearing, is hereby amended by inserting after "Commissioner" the following definition:

"Commissioner of DPH," the commissioner of the department of public health.

SECTION 3. Said section 2 of chapter 132B, as so appearing, is hereby amended by inserting after "Fungi" the following definitions:

"Health care facility," a health care facility as defined in section nine C of chapter one hundred and twelve.

"Hospital," any hospital licensed under section fifty-one of chapter one hundred and eleven, the teaching hospital of the University of Massachusetts Medical School and any psychiatric facility licensed under section nineteen of chapter nineteen.

SECTION 4. Said section 2 of chapter 132B, as so appearing, is hereby amended by inserting after "Pesticide" the following definition:

"Pesticide Advisory Committee," the committee created by section 12 of this Act.

SECTION 5. Said section 2 of chapter 132B, as so appearing, is hereby amended by inserting after “Plant regulator” the following definition:

“Priority Toxic Pesticide,” any of the substances contained in the list promulgated by the Commissioner of DPH pursuant to Section 9 of this Act.

SECTION 6. Said section 2 of chapter 132B, as so appearing, is hereby amended by inserting after “Protect health and the environment” the following definitions:

“Public building,” any building owned, occupied, or used by any public entity including but not limited to the commonwealth and any county, city, town, authority, transit or school district, or any agency or instrumentality thereof.

“Public housing,” any federal, state or municipally subsidized housing or housing project.

SECTION 7. Said section 2 of chapter 132B, as so appearing, is hereby amended by inserting after “Registrant” the following definition:

“Retailer,” any private business that sells a product in the commonwealth.

SECTION 8. Said section 2 of chapter 132B, as so appearing, is hereby amended by deleting the definition of “School” the replacing it with the following definition:

“School,” any public or private educational institution including but not limited to any public or private elementary, middle, high school, junior college, college, university, school of medicine, or law school.

SECTION 9: Said chapter 132B is hereby further amended by inserting after section 5 the following section:—

Section 5A. The Commissioner of DPH shall issue a list of priority toxic pesticides that are recognized as carcinogenic, mutagenic, or toxic to development or reproduction. This list will be subject to no fewer than two public hearings in different regions of the commonwealth and an

open public comment period of not less than 90 days. The Commissioner of DPH shall update this list every two years or as health-related information becomes available regarding the toxicity of pesticides not on the list.

SECTION 10: Section 6A of chapter 132B of the General Laws, as so appearing, is hereby amended by inserting after “No individual certified or licensed as a pesticide applicator shall violate any provision, condition, term or restriction of his certification or license” the following:— No individual certified or licensed as a pesticide applicator shall use any priority toxic pesticide. This provision shall not apply to certified or licensed pesticide applicators when applying priority toxic pesticides in agricultural settings.

No state, municipal, school, daycare center, hospital, health care facility, or public housing buildings or grounds, shall use or permit to be used any priority toxic pesticide.

SECTION 11: Said chapter 132B is hereby further amended by inserting after section 6K the following section:—

Section 6L. Any retailer that sells pesticides shall post the list of priority toxic pesticides being sold and the respective health effects of each pesticide on the shelf where pesticides are sold, no lower than three feet and no higher than six feet off the ground and spaced every four feet along the shelf on which pesticides are sold. Where pesticides are purchased by a consumer over the counter, the warning signs shall meet the following specifications:

(a) Be square in shape and no smaller than 10 inches on a side or be rectangular in shape and no smaller than 11 inches wide by 8.5 inches high.

(b) Be printed in a color of ink that is in high contrast to the color of the background material.

(c) At least 1/3 inch margin shall be maintained around the notice.

(d) The first two sentences shall be in bold letters and be no smaller than 30 point type face.

The remaining sentences shall be no smaller than 25 point type face. The specific names of pesticides shall be in all bold, upper case letters.

SECTION 12: Said chapter 132B is hereby further amended by inserting after section 15 the following section:—

Section 16. Within three months of the adoption of this legislation, the Commissioner of DPH shall appoint a Pesticide Advisory Committee to review the progress and enactment of the priority pesticide list. The committee shall include one industry representative, one representative from the environmental community, one representative from the public health community, one representative from the parent and teacher association, one representative from a hospital board, one representative who shall be a resident of public housing, one licensed pesticide applicator, one representative from the Department of Agricultural Resources, and one state facility manager.

SECTION 13: Said chapter 132B is hereby further amended by inserting after section 14 the following section:—

Section 14A. Within six months after the adoption of this legislation the Commissioner of DPH shall create a toll free hotline on which callers may ask questions and report violations of this Act.

SECTION 14: Said chapter 132B is hereby further amended by striking out section 7A in its entirety and inserting in place thereof the following section:—

Section 7A. (a) The department shall establish and implement a pesticide use reporting system for use by government agencies, researchers, policy makers and the public to ensure the public health and safety and to protect the environment of the commonwealth. In establishing

and implementing the system, said department shall design, develop and implement the system in order to collect, evaluate, summarize, retain and report information on the use of pesticides in each major category of use in the commonwealth, including agriculture, forestry, industrial, commercial and homeowner uses. Said department shall, at least one time each year, collect the best data practicable from each major category of pesticide use. This shall include, but not be limited to, sales data from pesticide retailers in the commonwealth and application data from each individual licensed or certified pesticide applicator, including the location of the application of the pesticide. Data shall be collected in a manner that will allow such data to be used for public health purposes, including, but not limited to, epidemiological studies, and for environmental protection purposes. Such data shall be collected in a manner which minimizes reporting costs. Said department shall begin operation of the required statewide data reporting program on or before January 31, 2007.

(b) The secretary of environmental affairs shall appoint a pesticide stakeholder work group to advise the department in developing the pesticide use reporting system required by this section. Said secretary shall appoint the following members of the work group: one pesticide applicator, one pesticide dealer, one public health expert or researcher familiar with pesticides and their impact on public health, one representative from the department of public health, one representative from the department of environmental protection, one representative from the department's pesticide board established by section 3, and one representative from each of the following organizations: one environmental organization, one labor organization, one public health organization, one public water supplier and one agricultural organization. In carrying out its responsibilities under this section, the department shall consult with the work group appointed under this section and convene meetings of the work group as necessary. All meetings of the

work group shall be open to the public and shall include an opportunity to receive recommendations and comments from members of the public. The work group shall make specific recommendations on stable and sufficient funding mechanisms to support the pesticide reporting program.

(c) Said department shall conduct an analytical review of any issues that must be resolved in order to establish a valid, cost-effective pesticide use reporting system in the commonwealth. The review shall be conducted in consultation with the work group appointed under this section, and its conclusions shall be published not later than January 31, 2007. As part of the analytical review required by this section, the department shall consider whether and to what extent use of anti-microbial pesticides, as defined in section 2, shall be part of the pesticide use reporting system. In implementing the pesticide use reporting system, the department shall, beginning January 31, 2009, and annually thereafter, make available data on pesticide use in the commonwealth.

(d) Said department shall develop a consistent format for data reporting for each major category or use and post said information on the web site.

(e) Said department shall develop protocols for the exchange of information with the department of public health or other state agencies for the purpose of conducting research related to the public health and the environment. Said department shall also establish policy and adopt rules relating to the public release of pesticide use information. The policy and rules may not reveal the identity of the owner or lessee of a specific property or the address of the property itself where a pesticide has been applied, and shall maintain the confidentiality of that information. Nothing in the policy or rules adopted by said department shall limit access to data

for the following purposes: (1) information obtained as part of any investigation under any other provision of law; (2) the release of information obtained exclusively under this chapter to any other local, state or federal agency, if the local, state or federal agency has agreed to maintain the confidentiality of any information that is required to be treated as confidential under this subsection, unless the public interest by clear and convincing evidence requires disclosure in the particular instance; and (3) the release of information obtained exclusively under this chapter to a health or environmental researcher acting in an official capacity from an accredited university or accepted research institute who agrees to maintain the confidentiality of any information that is required to be treated as confidential under this section.

SECTION 15: Said chapter 132B is hereby further amended by striking out section 14 in its entirety and inserting in place thereof the following section:—

Section 14. Any person who knowingly violates any provision of section six shall be punished by a fine of not less than one thousand dollars and not more than twenty-five thousand dollars, or by imprisonment for not more than one year, or both such fine and imprisonment, for each such violation, or shall be subject to a civil penalty not less than ten thousand dollars and not to exceed twenty-five thousand dollars for each such violation, which may be assessed in an action brought on behalf of the commonwealth in any court of competent jurisdiction. Each day of violation shall constitute a separate offense.

Any person who violates any provision of section 6A to 6K, inclusive, or section 7A, who violates any regulation adopted under the provisions of this chapter, (a) shall be punished by a fine of not more than one thousand dollars, or imprisonment for not more than six months, or both such fine and imprisonment, for the second and each subsequent offense knowingly



committed, or (b), shall be subject to a civil penalty not to exceed ten thousand dollars for any offense, which may be assessed in an action brought on behalf of the commonwealth in any court of competent jurisdiction. Each day of violation shall constitute a separate offense.

Any person who violates any order issued under the provisions of this chapter, (a) shall be punished by a fine of not less than one thousand dollars nor more than twenty-five thousand dollars or imprisonment for not more than two years, or both such fine and imprisonment, for each violation knowingly committed, or (b) shall be subject to a civil penalty not less than one thousand dollars and not to exceed twenty-five thousand dollars for each violation, which may be assessed in an action brought on behalf of the commonwealth in any court of competent jurisdiction. Each day of violation shall constitute a separate offense.

The superior court shall have jurisdiction to enjoin violations of, or grant such relief as it deems necessary or appropriate to secure compliance with, any provision of this chapter or the terms of an order, license, certification, registration, permit or regulation issued or adopted thereunder.

SECTION 16: This act shall take effect one year after the date of enactment.